



United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/963,857	09/26/2001	Michael D. Ruehle	42390P11973	1608	
8791	7590 10/14/2005		EXAM	INER	
	SOKOLOFF TAYLO	PYZOCHA, I	PYZOCHA, MICHAEL J		
SEVENTH I	SHIRE BOULEVARD FLOOR		ART UNIT	PAPER NUMBER	
LOS ANGE	LES, CA 90025-1030		2137		

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)
09/963,857	RUEHLE, MICHAEL D.
Examiner	Art Unit
Michael Pyzocha	2137

have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply period for reply pixel yet enter the mailing date of the final rejection, over a fitting of the cked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2. The Notice of Appeal was filed on		Michael Pyzocha	2137					
1. ☑ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies. (1) an amendment, affidavit, or or dividence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.114. The reply must be filled within one of the following time periods: □ The period for reply expiresmonths from the mailing date of the final rejection. □ The period for reply expires on; (1) the mailing date of the final rejection. □ The period for reply expires on; (1) the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b) ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MEPE 708.07(i). Extensions of time may be obtained under 37 CFR 1.136(a) and the appropriate extension fee than the period with the date for purposes of determining the period of detension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as at from in 0 above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filled. □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e), to avoid dismissal of the appeal. Since a Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filled within the time period set forth in 37 CFR 41.37(e), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filled within the time period set forth in 37 CFR 41.37(e), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any	The MAILING DATE of this communication appe	ars on the cover sheet with the	correspondence add	ress				
1. ☑ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies. (1) an amendment, affidavit, or or dividence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.114. The reply must be filled within one of the following time periods: □ The period for reply expiresmonths from the mailing date of the final rejection. □ The period for reply expires on; (1) the mailing date of the final rejection. □ The period for reply expires on; (1) the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b) ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MEPE 708.07(i). Extensions of time may be obtained under 37 CFR 1.136(a) and the appropriate extension fee than the period with the date for purposes of determining the period of detension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as at from in 0 above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filled. □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e), to avoid dismissal of the appeal. Since a Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filled within the time period set forth in 37 CFR 41.37(e), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filled within the time period set forth in 37 CFR 41.37(e), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any	THE REPLY FILED 30 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.							
 b) ∑ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection. Nichoever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRNAL REJECTION. See MPEP 706.07(f). Éxtensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been flied is the date for purposes of determining the period of extension and the corresponding amount of the fee. has periodized settle from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). MOTICE OF APPEAL Chip Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was fled on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37 must be filed within the time period set forth in 37 CFR 41.37(a). Almenomenta and the proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ∑ they raise the issues of new matter (see NOTE below); (b) They raise new issues that would require further consideration and/or search (see NO	this application, applicant must timely file one of the follow places the application in condition for allowance; (2) a No a Request for Continued Examination (RCE) in compliance	ving replies: (1) an amendment, af tice of Appeal (with appeal fee) in	fidavit, or other evider compliance with 37 C	rce, which FR 41.31; or (3)				
to) Sevent-however, will the statutory period for reply expired for reply expire later than St MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRNAL REJECTION. See MPEP 706 37(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been flied is the date for purposes of determining the period of extension and the corresponding amount of the fee appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action: or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely flied, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). MOTICE OF APPEAL. 1. The Notice of Appeal was flied on A brief in compliance with 37 CFR 41.37 must be filled within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(b)) to avoid dismissal of the appeal. Since a Notice of Appeal has been flied, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. ★ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ★ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ★ They raise new issues that would require further consideration and/or search (see NOTE below); (c) ★ They raise new issues of new matter (see NOTE below); (c) ★ They raise new issue of new matter (see NOTE below); (d) ★ They raise not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal, and/or appeal, and/or appeal and/o	a) The period for reply expiresmonths from the mailing	g date of the final rejection.						
have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.7(2) is calculated from: (1) the expiration date of the shortened statutory period for reply viorigized is in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise the issue of new matter (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal, and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. Applicant's reply has overcome the following rejection(s):	b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WIT							
 2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (a)), to avoid dismissal of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (c) ☐ They are not deemed to place the application in better form for appeal by materially rejected claims. NOTE: See Continuation Sheef. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s):	Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. Applicant's reply has overcome the following rejection(s):		diance with 37 CED 41 37 must be	filed within two month	a of the date of				
3. ☑ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because (a) ☑ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s):	filing the Notice of Appeal (37 CFR 41.37(a)), or any exte a Notice of Appeal has been filed, any reply must be filed	nsion thereof (37 CFR 41.37(e)), to	avoid dismissal of th	e appeal. Since				
(a)								
6. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) ovigeted: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s)	 (a) They raise new issues that would require further co (b) They raise the issue of new matter (see NOTE belo (c) They are not deemed to place the application in bel appeal; and/or (d) They present additional claims without canceling a NOTE: See Continuation Sheet. (See 37 CFR 1.1 	nsideration and/or search (see NOw); w); tter form for appeal by materially re corresponding number of finally rej 16 and 41.33(a)).	TE below); educing or simplifying	the issues for				
6. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) ovigeted: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s)	5. Applicant's reply has overcome the following rejection(s)	: .						
how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: Claim(s) rejected: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). EMMANUEL L. MOISE	6. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the							
8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). EMMANUEL L. MOISE	how the new or amended claims would be rejected is profile the status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: Claim(s) withdrawn from consideration:	☐ will not be entered, or b) ☐ wivided below or appended.	Il be entered and an e	explanation of				
because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). EMMANUEL L. MOISE								
entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 13. Other: EMMANUEL L. MOISE	because applicant failed to provide a showing of good anwas not earlier presented. See 37 CFR 1.116(e).	d sufficient reasons why the affida	vit or other evidence is	necessary and				
REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 13. Other: EMMANUEL L. MOISE	entered because the affidavit or other evidence failed to one showing a good and sufficient reasons why it is necessary	overcome <u>all</u> rejections under appe y and was not earlier presented. S	al and/or appellant fai see 37 CFR 41.33(d)(1	ls to provide a).				
11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 13. Other: EMMANUEL L. MOISE	•		,	* *				
13. Other: EMMANUEL L. MOISE		t does NOT place the application i	n condition for allowar	nce because:				
	12. Note the attached Information Disclosure Statement(s). 13. Other:		EMMAÑUEL L. MOI	ŠE (AMINER				

P

Continuation of 3. NOTE: The added limitation in the independent claims has not previously been searched or considered.